

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GENE MINETTI,

Plaintiff,

v.

CITY OF SEATTLE, STATE OF  
WASHINGTON, and KING COUNTY

Defendants.

No. C04-5685Z

ORDER

**BACKGROUND**

Plaintiff Gene Minetti alleges that the City of Seattle operates a criminal enterprise in concert with the State of Washington, the Seattle Municipal Court, the King County District Court, the King County Superior Court, the Washington State Court of Appeals, the Washington State Supreme Court, the Federal District Court for the Western District of Washington, the King County Prosecutor, the Washington State Patrol, the Washington State Attorney General, and the Governor. Plaintiff alleges these various governmental entities have conspired to violate his Constitutional rights, and the Racketeer Influenced and Corrupt Organizations (“RICO”) Act, 18 U.S.C. § 1961 et seq. Plaintiff brings this action pursuant to RICO and 42 U.S.C. § 1983, and Washington State law.

1 **A. City of Seattle**

2 **1. Starbucks, April 2002.**

3 Plaintiff alleges he was harassed at Starbucks when “four S.P.D. Ofcs. did for no good  
4 reason attempt to enter the single occupancy Men’s Room . . . while Minetti already  
5 occuppied (sic) said room.” Compl., docket no. 4, at 2. Plaintiff alleges the officers caused  
6 a commotion, intimated they planned to use a stun gun on him, planted drugs, and caused  
7 him to be falsely arrested. Id. He further alleges he was denied bail and held without cause.  
8 Id.

9 The arresting officer’s report indicates Plaintiff was arrested for obstruction at  
10 Starbucks on April 21, 2002. See DeLuca Decl., docket no. 30-3, Ex. A. Plaintiff had been  
11 using the restroom for a long time when Officer DeLuca knocked on the door. Id. at 2-3.  
12 Plaintiff opened the door, screamed obscenities, and assumed an aggressive, threatening  
13 stance. Id. at 2. The officer feared Plaintiff was about to strike him, and Plaintiff was  
14 handcuffed for officer safety. Id. The officer confirmed with employees and witnesses that  
15 Plaintiff was an ongoing problem, and attempted to obtain Plaintiff’s name for a trespass  
16 warning. Id. When Plaintiff refused to give his name, he was arrested for obstruction and  
17 admonished from Starbucks. Id.

18 **2. Stolen Truck, September 2002.**

19 Plaintiff alleges that the Seattle Police refused to investigate after James Wlos stole  
20 his Ford pickup. Compl., docket no. 4, at 4. The Seattle Police have no record of Plaintiff’s  
21 reported theft, but have a record of a property damage call on September 19, 2002, where  
22 Plaintiff was a suspect. See Martin Decl., docket no. 30-5, Ex. A. The victim was a witness  
23 in a criminal case against Plaintiff, and believed he was responsible for property damage to  
24 her vehicle. Id.

25 **3. Lincoln Towing, August 2003.**

1 Plaintiff alleges that the Seattle Police conspired with Lincoln Towing to stop his  
2 vehicle and hold him at gunpoint. Id. On August 11, 2003, Officer Ritter responded to a call  
3 at Lincoln Towing. See Ritter Decl., docket no. 30-7, Ex. A. Plaintiff was allegedly  
4 intimidating employees inside the offices of Lincoln Towing. Id. at 1. Plaintiff had been  
5 armed on the premises in the past with a knife and rifle, and was stopped at gunpoint by  
6 Officer Ritter. Id. Officer Ritter located a knife on Plaintiff, which was 1/8" shorter than the  
7 legal limit. Id. at 2. When Lincoln Towing was unable to produce a no-contact order,  
8 Plaintiff was released.

9 **4. Starbucks Dog Incident, October, 2003.**

10 Plaintiff alleges that he and his dog Sweetie Pie were harassed and intimidated at  
11 Starbucks by Police. See Compl., docket no. 4, at 3. On October 22, 2003, Officer Molly  
12 Clark observed Minetti sitting outside Starbucks with a "very large" dog that was not  
13 leashed, and was wandering near the store. See Clark Decl., docket no. 30-2, Ex. A.  
14 Concerned for the safety of the dog, and for pedestrians whose path was being blocked,  
15 Officer Clark informed Plaintiff that he needed to keep his dog leashed. Id. at 1. Officer  
16 Clark also informed Plaintiff that his dog needed to be licensed. Id. at 2. Plaintiff became  
17 upset and screamed at Officer Clark, repeatedly demanding her name and badge number. Id.  
18 Before Officer Clark could give Plaintiff her name and badge number, he left the scene. Id.

19 **5. University Village, January 2004.**

20 Plaintiff alleges he and his dog Sweetie Pie were again disturbed and harassed at the  
21 University Village Starbucks. See Compl., docket no. 4, at 3. On January 2, 2004, Officer  
22 Debra Pelich observed Plaintiff suspiciously digging through items in the bed of a truck in a  
23 dimly lit area at University Village. See Pelich Decl., docket no. 30-6, Ex. A. As Officer  
24 Pelich approached, Plaintiff went into a verbal rage, screaming "You fucking dyke cop, you  
25 fucking bitch. You fucking woman get on the force and become fucking men." Id. at 2.  
26 Plaintiff refused to identify himself, and the officers confirmed that the vehicle was

1 registered to another individual. Id. However, when University Village security later  
2 confirmed that they had seen Plaintiff in the vehicle in the past, he was not arrested. Id.

3 **6. Value Village, January 2004.**

4 Plaintiff alleges that he was harassed by Seattle Police after he declined to fight a  
5 “two-time loser” drug dealer named “Dale.” Plaintiff alleges Seattle Police refused to take  
6 his report, stated they were going to arrest him, and escorted him from the store with  
7 assistance from the Store Manager. See First Minetti Aff., docket no. 44-2, at 1. He alleges  
8 he was allowed to leave the premises, after being escorted from the premises. Id.  
9 The City of Seattle has no records or incident reports related to this event. See Motion for  
10 Summary Judgment, docket no. 30-1, at 4.

11 **7. Dog Theft, February 2004.**

12 Plaintiff alleges that Seattle Police took part in the theft of his dog, Sweetie Pie, by  
13 forcing him to give the dog to James Wlos. See Compl., docket no. 4, at 4. On February 13,  
14 2004, Wlos untied a dog outside Starbucks, put the dog in his car, and drove away. See  
15 Stevens Decl., docket no. 30-8, Ex. A. Minetti called Seattle Police to report the theft of his  
16 dog, Sweetie Pie. Id. When Officer Stevens arrived at the scene, Sweetie Pie responded to  
17 both Plaintiff and Wlos. Id. at 2. Animal Control determined that the dog had a microchip  
18 registered to Plaintiff. Id. However, Wlos had tags matching the dog which pre-dated the  
19 microchip installation. Id. Plaintiff refused to answer Officer Stevens when asked where he  
20 got the dog. Id. at 3. Several more witnesses showed up and identified the dog as belonging  
21 to Wlos. Officer Stevens released the dog to Wlos because he determined that Wlos was the  
22 first to have the dog on record. Id.

23 **8. Vehicle Damage, February 2004.**

24 Plaintiff alleges that on February 20, 2004, his 1983 Chevy Caprice was stripped by  
25 Wlos, and placed in impound and for auction by Seattle Police. See Compl., docket no. 4, at  
26 5. Officer Michelle Fox completed an incident report for Plaintiff on March 27, 2004, five

1 weeks after the alleged theft. See Fox Decl., docket no. 30-4, Ex. A. Plaintiff admitted that  
2 he did not report the theft for five weeks, and could not identify the location of the vehicle  
3 before impound. Id. at 1-2. Plaintiff's vehicle was impounded after the theft by Lincoln  
4 Towing and put up for auction, after being parked over 72 hours. Id. at 2.

5 **9. Vehicle Damage, March 2004.**

6 Plaintiff alleges that Wlos broke the window on Plaintiff's 1989 Ford Escort, took  
7 property, and hammered the ignition lock. See Compl., docket no. 4, at 5. Plaintiff alleges  
8 that the car was "pointed out to Wlos by SPD (or Lincoln Tow)." Id. The City has no  
9 records of this incident.

10 **10. Wlos Conspiracy.**

11 Plaintiff alleges that James Wlos and his associates have "preyed" upon Plaintiff, and  
12 that Wlos has claimed favorable treatment from law enforcement. Compl., docket no. 4, at  
13 4.

14 **B. King County**

15 Plaintiff alleges that various judges of the King County District and Superior Courts  
16 have conspired with the City of Seattle and the King County Sheriff's office to deny him  
17 access to the King County Courthouse. Compl., docket no. 4, at 6. He further alleges that  
18 various judges have failed to properly comply with state law and court rules, dismissed his  
19 cases, and improperly denied him relief. Id.

20 **C. State of Washington**

21 Plaintiff alleges that various Washington State agencies have failed to investigate  
22 claims that he has submitted regarding the police department and the sheriff's office, and to  
23 protect him from their actions. Plaintiff also alleges that the Washington State Supreme  
24 Court and Court of Appeals have failed to protect his rights, and improperly denied him  
25 relief. Compl., docket no. 4, at 7.

26 **DISCUSSION**

Summary judgment is appropriate where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). The moving party bears the initial burden of demonstrating the absence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Once the moving party has met this burden, the opposing party must show that there is a genuine issue of fact for trial. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). The opposing party must present significant and probative evidence to support its claim or defense. Intel Corp. v. Hartford Accident & Indem. Co., 952 F.2d 1551, 1558 (9th Cir. 1991). In order to defeat a motion for summary judgment, the non-moving party must make more than conclusory allegations, speculations, or argumentative assertions that material facts are in dispute. Wallis v. J.R. Simplot Co., 26 F.3d 885, 890 (9th Cir. 1994). Moreover, in ruling on a motion for summary judgment, the Court may only consider evidence that would be admissible at trial, and may not consider inadmissible hearsay. Key Bank of Puget Sound v. Alaskan Harvester, 738 F. Supp. 398, 401 (W.D. Wash. 1989).

For purposes of these motions for summary judgment, reasonable doubts as to the existence of material facts are resolved against the moving party and inferences are drawn in the light most favorable to the opposing party. Addisu v. Fred Meyer, Inc., 198 F.3d 1130, 1134 (9th Cir. 2000). However, if no *factual* showing is made in opposition to a motion for summary judgment, the District Court is not required to search the record *sua sponte* for some genuine issue of material fact. See Carmen v. San Francisco Unified School Dist., 237 F.3d 1026, 1029 (9th Cir. 2001) (“The district court may limit its review to the documents submitted for the purposes of summary judgment and those parts of the record specifically referenced therein.”) (emphasis added).

#### **A. Statute of Limitations**

Under Washington law, a two-year statute of limitations applies for intentional torts, including “assault, assault and battery, and false imprisonment.” Wash Rev. Code §

1 4.16.100. False arrest claims are also barred under the two-year statute of limitations. See  
2 Heckart v. City of Yakima, 42 Wash. App. 38, 38-39 (1985). Plaintiff filed this lawsuit on  
3 July 7, 2004. See Compl., docket no. 4. As such, Plaintiff's claim for his April 21, 2002  
4 arrest at Starbucks, and the related intentional torts and false imprisonment allegations, are  
5 barred by Plaintiff's failure to bring suit within the two-year statute of limitations.

6 **B. Claim Filing Statutes**

7 Washington State's claim filing statute, Wash. Rev. Code § 4.96.020, requires the  
8 filing of a claim for damages with a local government entity before commencing legal action.  
9 Similarly, Seattle Municipal Code § 5.24.005 bars the commencement of action against the  
10 City of Seattle for monetary damages without the filing of a written claim for damages with  
11 the City Clerk. Strict, not substantial, compliance is required. See Pirtle v. Spokane Pub.  
12 Sch. Dist. No. 81, 83 Wash. App. 304, 307 (1996). The failure to comply with the claims  
13 filing statutes requires dismissal of the claims. See Daggs v. City of Seattle, 110 Wash.2d 49  
14 (1988); Sievers v. City of Mountlake Terrace, 97 Wash. App. 181, 183 (1999) (barring  
15 plaintiff's complaint with prejudice on summary judgment due to failure to strictly comply  
16 with the 60-day waiting period by commencing suit 59 days after filing her notice of claim).

17 Plaintiff has filed two Claims for Damages with the City of Seattle since January 15,  
18 2003. Quiggle Decl., docket no. 30-9, ¶ 3. Plaintiff's January 15, 2003, Claim for Damages  
19 alleges the failure of law enforcement to protect him, the failure of law enforcement to  
20 accept his complaints for auto theft-assault, and false arrest on April 21, 2002. See Quiggle  
21 Decl., docket no. 30-9, Ex. A. Plaintiff's February 24, 2004, Claim for Damages alleges the  
22 theft of Sweetie Pie, and damage claims for separation trauma and loss of consortium. Id.,  
23 Ex. B.

24 Plaintiff has not filed claims for damages for all other incidents alleged in his  
25 Complaint, including the (1) September 2002 theft of his Ford truck by James Wlos; (2) the  
26 August 2003 disturbance at Lincoln Towing; (3) the October 2003 disturbance and trespass

1 at Starbucks; (4) the January 2004 altercation at University Village; (5) the January 2004  
2 altercation at Value Village; (6) the February theft and vandalism to his Chevy Caprice; (7)  
3 the March theft and vandalism to his Ford Escort; and (8) the conspiracy theory involving  
4 James Wlos. Plaintiff has failed to comply with the claim filing statute relating to these  
5 claims. See Wash. Rev. Code § 4.96.020; Seattle Muni. Code § 5.24.005. As such,  
6 Plaintiff's state law claims relating to these eight (8) incidents are DISMISSED with  
7 prejudice, including Plaintiff's claims for assault, false arrest, false imprisonment, and  
8 malicious prosecution, because Plaintiff has not submitted claims for damages.

9 **C. RICO**

10 The RICO statute prohibits certain acts related to a "pattern of racketeering activity."  
11 18 U.S.C. § 1962. Racketeering activity is a defined term that includes "any act or threat  
12 involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in  
13 obscene matter, or dealing in a controlled substance . . ." 18 U.S.C. § 1961(1). Plaintiff  
14 alleges a conspiracy involving city, county, state, and federal governments. Compl., docket  
15 no. 4, at 6. However, he produces no evidence in support of the conspiracy allegation.  
16 Plaintiff's allegations of RICO violations and conspiracy are insufficient to withstand  
17 summary judgment. Plaintiff's references to the investigations of him by Seattle Police are  
18 related to his conduct, and past behavior and activities. Plaintiff's claims for violations of  
19 RICO are DISMISSED with prejudice against all parties named in the Complaint, including  
20 the City of Seattle, King County, and the State of Washington.

21 **D. 42 U.S.C. § 1983**

22 In order to establish liability against a local, county, or state government under 42  
23 U.S.C. § 1983, Plaintiff must prove (1) that a municipal policy or custom existed, which (2)  
24 directly caused a violation of his constitutional rights. Monell v. Dept. of Social Services,  
25 436 U.S. 658 (1978). Plaintiff argues that various anonymous Seattle Police officers made  
26 statements indicative of a policy or custom. One anonymous officer allegedly told him in



1 1997 that the Seattle Police Department had received “orders from above” to “come down”  
2 on him. Another anonymous officer allegedly bragged about perjury in a case against  
3 Plaintiff, and a third anonymous officer allegedly threatened Minetti. However, even taken  
4 in the light most favorable to Plaintiff, these anonymous hearsay allegations are insufficient  
5 as a matter of law to establish that any municipal policy or custom existed. An isolated  
6 incident of unconstitutional action by a non-policymaking employee is insufficient to  
7 establish the existence of a policy or custom. Oklahoma City v. Tuttle, 471 U.S. 808 (1985).

8 Moreover, even if a policy or custom existed, Plaintiff cannot show that it caused a  
9 violation of his rights. A municipality cannot be held liable under § 1983 merely because  
10 plaintiff suffers a deprivation of federal rights at the hands of a municipal employee. See  
11 Bryan County Commissioners v. Brown, 520 U.S. 397 (1997). Rather, the plaintiff must  
12 identify a municipal policy or custom which itself caused the plaintiff’s injury. Id. Because  
13 Plaintiff has failed to identify any municipal policy or custom responsible for the  
14 constitutional violations alleged, Plaintiff’s claims under 42 U.S.C. § 1983 are DISMISSED  
15 with prejudice against all parties.

16 **E. Qualified Immunity and Absolute Immunity**

17 Plaintiff has only brought suit against the City of Seattle, King County, and the State  
18 of Washington. See Compl., docket no. 4, at 1. Nevertheless, his Complaint identifies a  
19 number of individual city and state employees. Id. at 7. The Attorney General argues these  
20 individuals are entitled to qualified or absolute immunity.

21 **1. State Employees**

22 “Qualified immunity ‘is an entitlement not to stand trial or face the other burdens of  
23 litigation.’” Saucier v. Katz, 533 U.S. 194, 200-01 (2001) (quoting Mitchell v. Forsythe, 472  
24 U.S. 511, 526 (1985)). The threshold inquiry is whether, taking the facts in the light most  
25 favorable to the Plaintiff, the conduct of the state employees violated one of Plaintiff’s  
26 constitutional rights. Id. at 201. If no violation occurred, then no further inquiry is

1 necessary and the suit should be dismissed. Id. However, if a constitutional violation may  
2 have occurred, then the inquiry turns to whether the constitutional right was clearly  
3 established. Id. A right is clearly established if it is clear enough that a reasonable official  
4 would have recognized that his conduct was unlawful. Id. at 202. The plaintiff bears the  
5 burden of proving that the specific right claimed was clearly established at the time of the  
6 alleged misconduct. Davis v. Scherer, 468 U.S. 183 (1984).

7 Plaintiff has alleged no violation by state employees of any specific right under  
8 federal law. His primary complaint is that state employees failed to investigate his numerous  
9 complaints against the City of Seattle and King County. See Compl., docket no. 4, at 6-7.  
10 However, there is no clearly established right to have complaints against local jurisdictions  
11 investigated by state employees. There was no reason for state employees to believe their  
12 conduct was anything but lawful. The State employees are entitled to qualified immunity,  
13 any claims against state employees must be DISMISSED with prejudice.

## 14 **2. Judges and Court Staff.**

15 Plaintiff also alleges that judges and court staff failed to adequately protect his rights,  
16 improperly dismissed his claims, and improperly barred him from the courthouse. A judge is  
17 immune from civil actions for conduct undertaken as a judicial officer. Mireles v. Waco,  
18 502 U.S. 9 (1991) (applying immunity where judge ordered police officers to use force and  
19 to bring an attorney before the bench). The immunity is applicable regardless of whether the  
20 suit is styled as being against the defendant in their official or individual capacity. Hirsh v.  
21 Justices of the Supreme Court of California, 67 F.3d 708, 715 (9th Cir. 1995). Judicial  
22 immunity extends to the court staff. Lundahl v. Zimmer, 296 F.3d 936, 939 (10th Cir. 2002)  
23 (court clerks); Oliva v. Heller, 839 F. 2d 37, 39-40 (2d Cir. 1988) (law clerks); Rodriguez v.  
24 Weprin, 116 F.3d 62, 66 (2d Cir. 1997) (court staff).

25 Plaintiff has filed a number of actions in courts throughout Washington and has  
26 pursued those cases at the appellate level. See Meyer Decl., docket no. 15, at ¶¶ 2, 3, Attach.

1 1. There is no denial of access to the courts simply because Plaintiff did not get the outcome  
2 he wanted. Plaintiff cannot sue judges or court staff because his cases were dismissed.  
3 Plaintiffs' claims against the judges and against King County are barred by judicial immunity  
4 and are DISMISSED with prejudice.

5 **F. Probable Cause**

6 As an alternative basis for dismissal of Plaintiff's claims against the City of Seattle for  
7 false arrest, false imprisonment, or malicious prosecution, the City argues that probable  
8 cause bars Plaintiff's claims. Probable cause exists when the facts and circumstances within  
9 the officer's knowledge are sufficient to cause a person of reasonable caution to believe that  
10 a crime has been committed. Ybarra v. Illinois, 444 U.S. 85, 91 (1979). The validity of an  
11 arrest is determined by objective facts and circumstances known to the officer at the time of  
12 the arrest. Beck v. Ohio, 379 U.S. 89, 96 (1964). "It is immaterial whether or not the  
13 [arrestee] was actually violating the law at the time of the arrest if in fact his conduct was  
14 such as to lead a reasonable prudent officer to believe in good faith he was violating the  
15 law." Sennett v. Zimmerman, 50 Wash.2d 649, 651 (1937).

16 False arrest or imprisonment "is the unlawful violation of a person's right of liberty or  
17 the restraint of that person without legal authority." Bender v. Seattle, 99 Wash.2d 582, 590-  
18 91 (1983). Probable cause is a complete defense to an action for false arrest and  
19 imprisonment. Hanson v. Snohomish, 121 Wash.2d 552, 563 (1993). Generally speaking,  
20 malicious prosecution is the malicious institution or continuation of a prosecution, without  
21 probable cause, causing damage or injury, where the proceedings are terminated in favor of  
22 the plaintiff. Hanson, 121 Wash.2d at 558. The existence of probable cause is a complete  
23 defense to an action for malicious prosecution.

24 Plaintiff only generally disputes the factual allegations of the various Officers, as  
25 contained in their declarations. Plaintiff argues that the supporting declarations are  
26 incomplete and that he "need not herein refute each declaration." Id. at 4. This position is

1 untenable. Once the moving party has met its burden of demonstrating the absence of a  
2 genuine issue of material fact, the opposing party must show that there is a genuine issue of  
3 fact for trial. Matsushita, 475 U.S. at 586. Plaintiff here must present significant and  
4 probative evidence to rebut the Defendant's well-supported claims of probable cause, in  
5 order to succeed on his claims for false imprisonment or malicious prosecution. Intel, 952  
6 F.2d at 1558. To defeat a motion for summary judgment, the non-moving party must make  
7 more than conclusory allegations, speculations, or argumentative assertions that material  
8 facts are in dispute. Wallis v. J.R. Simplot Co., 26 F.3d 885, 890 (9th Cir. 1994). Plaintiff  
9 must specifically refute the allegations of fact and demonstrate that there is a genuine issue  
10 of material fact for trial. Plaintiff has not presented evidence of any arrest, imprisonment, or  
11 prosecution, that was unsupported by probable cause. As such, the Court finds Plaintiff's  
12 claims of false imprisonment, false arrest, and malicious prosecution, are barred by probable  
13 cause, as an alternative basis for dismissal.

14 **G. Wlos Conspiracy.**

15 Plaintiff presents no evidence of a conspiracy between James Wlos and the City of  
16 Seattle. All claims relating to the conspiracy allegation must be DISMISSED with prejudice.

17 **H. Substantive Due Process.**

18 Plaintiff's Complaint states a substantive due process claim, alleging arbitrary and  
19 capricious government action by state employees, for failing to investigate his claims against  
20 local government entities. To establish a violation of substantive due process, the plaintiff  
21 must prove that the government's action was "clearly arbitrary and unreasonable, having no  
22 substantial relation to the public health, safety, morals, or general welfare." Village of  
23 Euclid Ohio v. Ambler Realty Co., 272 U.S. 365, 395 (1926). The Court "looks to such  
24 factors as the need for the governmental action in question, the relationship between the need  
25 and the action, the extent of the harm inflicted, and whether the action was taken in good  
26 faith or for purpose of causing harm." Sinaloa Lake Owners v. Simi Valley, 882 F.2d 1398,

1 1409 (9th Cir. 1989), cert. denied, 494 U.S. 1016 (1990). Malicious, irrational, and plainly  
2 arbitrary actions are not within the legitimate purview of the state's power. Moore v. City of  
3 East Cleveland, Ohio, 431 U.S. 494, 520-521 (1977) (Stevens, J., concurring).

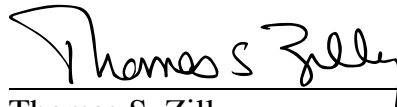
4 In order to maintain a claim of a constitutional deprivation of due process, the  
5 plaintiff must prove that the actions of the individual defendants were so egregious and so  
6 outrageous that they may fairly be said to shock the contemporary conscience. County of  
7 Sacramento v. Lewis, 118 S. Ct. 1708, 1717 n.8 (1998); see also Rochin v. California, 342  
8 U.S. 165 (1952) (forced pumping of a suspect's stomach). The State argues that the behavior  
9 by the state employees here cannot be said to shock the conscience. This argument has  
10 merit. Even assuming that Plaintiff did make the complaints that he alleges, the fact that no  
11 action or investigation was undertaken by state employees does not shock the conscience,  
12 and cannot support a finding of a civil rights violation. Plaintiff's substantive due process  
13 claim is therefore DISMISSED with prejudice.

14 **CONCLUSION**

15 The Court GRANTS the Motions for Summary Judgment, docket nos. 14 and 30, as  
16 to all claims. Plaintiff's Complaint is DISMISSED with prejudice.

17 IT IS SO ORDERED.

18 DATED this 29th day of June, 2004.

19  
20   
21 Thomas S. Zilly  
22 United States District Judge  
23  
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